

**Nursing and Midwifery Council
Fitness to Practise Committee**

**Substantive Order Review Meeting
28 November 2019**

Nursing and Midwifery Council
114-116 George Street, Edinburgh, EH2 4LH

Name of registrant:	Magna Dyllis Ajube	
NMC PIN:	01A0712E	
Part(s) of the register:	RNA –Sub part 1 Adult – February 2003	
Area of registered address:	England	
Type of case:	Misconduct	
Panel members:	Timothy Cole	(Chair, lay member)
	Mary Hattie	(Registrant member)
	Alice Clarke	(Registrant member)
Legal Assessor:	Michael Bell	
Panel Secretary:	Xenia Menzl	
Order being reviewed:	Suspension order (12 months)	
Outcome:	Striking-off order	

Decision and reasons on service of Notice of Meeting

The panel noted at the start of this meeting that Ms Ajube was not in attendance and that the Notice of Meeting had been sent to Ms Ajube's registered address by recorded delivery and by first class post on 3 October 2019.

The panel had regard to the Royal Mail 'Track and trace' printout which showed the Notice of Meeting was delivered to Ms Ajube's registered address on 10 October 2019. It was signed for in the name of Jordan.

The panel took into account that the Notice of Meeting provided details of the review including the time, dates and venue of the meeting.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Ajube has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (as amended) (the Rules).

The panel noted that the Rules do not require delivery and that it is the responsibility of any Ms Ajube to maintain an effective and up-to-date registered address.

Decision and reasons on review of the current order

The panel decided to impose a striking-off order. This order will come into effect at the end of 4 January 2020 in accordance with Article 30(1) of the Nursing and Midwifery Order 2001 (as amended) (the Order).

This is the second review of a suspension order originally imposed for a period of 9 months by a Fitness to Practise Committee panel on 1 March 2018. The order was reviewed by a panel of the Fitness to Practise committee on 29 November 2018 and was continued for another 12 months. The order is due to expire at the end of 4 January 2020.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved by way of admission which resulted in the imposition of the substantive order was/were as follows:

'That you, a Registered Nurse, whilst working at Yew Tree Nursing Home on the nightshift 21/22 August 2016:

1. *In relation to Resident A's complaints of pain:*
 - a) *Within the lounge area, you failed to carry out and/or document an examination of Resident A following a report of an injury to her right leg and right arm*
 - b) *On one or more occasions within Resident A's bedroom failed to carry out and/or document an examination of Resident A following the report of injury and Resident A being in pain*
 - c) *You failed to escalate matters appropriately, either to Colleague B; the out of hours service; and/or an ambulance service*
3. *You did not update Resident A's notes following concerns being raised about her health, to reflect those concerns, including but not limited to:*
 - a) *You did not document that Resident A required a dressing*
 - b) *You did not document that Resident A was breathless*
 - c) *You did not document that Resident A was in pain*
4. *You updated Resident A's daily notes stating that there had been no concerns and all care needs had been met when this was not the case*

6. *You failed to handover to Colleague A that Resident A had injured her arm and had complained of pain to her leg and/or been in pain'*

The first reviewing panel determined the following with regard to impairment:

'Today's panel took into account that the substantive panel had identified a risk of repetition, and that the charges were wide-ranging, serious and repeated.

Regarding Ms Ajube's insight, the panel noted that the substantive panel found that Ms Ajube had not accepted any wrongdoing, and failed to appreciate the seriousness of her misconduct or the impact that her actions had had on the nursing profession.

In its consideration of whether Ms Ajube has remedied her practice, today's panel noted that the substantive panel had determined that Ms Ajube's conduct was capable of remediation, but that it had not been provided with any evidence of remediation.

Ms Adjube has not engaged, or requested a hearing, or supplied any of the suggested information. The panel today has no new evidence to demonstrate that Ms Ajube has reflected any further on her misconduct.

Today's panel took into account that the substantive panel had identified a risk of repetition, and that the charges were wide-ranging, serious and repeated. It concluded that that there was no evidence before it to suggest that there is no longer a risk to the public. It determined that there remains a risk of repetition and that Ms Ajube's fitness to practise remains impaired on the grounds of public protection.

The panel bore in mind that its primary function was to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.'

The first reviewing panel determined the following with regard to sanction:

'The panel first considered whether to take no action, but concluded that this would be inappropriate in view of the seriousness of the case. To take no action would not restrict Ms Ajube's practice and given the risk of repetition in this case, this would not be appropriate or protect the public. The panel decided that it would neither be proportionate nor in the public interest to take no further action.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the SG, which states that a caution order may be appropriate where 'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again'. The panel considered that Ms Ajube's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the nature and extent of the misconduct, lack of insight, risk of repetition and the seriousness of the matters found proved. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order as it would place no restrictions on Ms Ajube's practice and so would not protect the public.

The panel next considered a conditions of practice order. The panel was mindful that any conditions imposed must be proportionate, measurable and workable. The panel today was the view that although the issues identified in the charges could be remediated by conditions, Ms Ajube's continuing lack of insight, inability to take full responsibility for her conduct, and continuing lack of engagement preclude this sanction. Therefore for the reasons outlined above, the panel determined that placing conditions on Ms Ajube would neither be appropriate, practicable or workable.

The panel next considered a suspension order. The panel concluded that a suspension order was appropriate as it would offer sufficient public protection whilst it was in force. The panel carefully considered the criteria for a suspension order. At the time of the substantive hearing there did not seem to be an attitudinal issue. However the lack of engagement by Ms Ajube's is disrespectful

to the regulator and may be suggestive of attitudinal matters. As there has been no engagement, the panel has to conclude that there has been no further development of Ms Ajube's insight. The panel concluded that the seriousness of Ms Ajube's misconduct, coupled with her continuing lack of insight, remorse and remediation into her misconduct requires Ms Ajube's temporary removal from the register. The panel determined that Ms Ajube's continuing lack of engagement has increased the public interest considerations.

The panel went on to consider whether it should impose a striking-off order instead. Ms Ajube's continuing lack of engagement could be said to amount to a persistent lack of insight and pushes this case towards a striking off order. However, today's panel considered that Ms Ajube's ongoing lack of engagement, misconduct and impaired fitness to practise was not yet sufficient to make it fundamentally incompatible with Ms Ajube remaining on the register. In the panel's judgement, a striking off order was not the only sanction that would sufficiently protect the public and address the public interest considerations in this case. However, Ms Ajube should be in no doubt as to the precariousness of her position.

The panel therefore imposes a suspension order of twelve months which gives Ms Ajube adequate time to re-engage if she decides to do so. This will take effect from the expiry of the current order at the end of 4 January 2019.'

Decision and reasons on current impairment

The panel has considered carefully whether Ms Ajube's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. It has noted the decision of the last panel. However, it has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle.

The panel heard and accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel noted that there has been no further communication from Ms Ajube since the substantive hearing.

The first reviewing panel suggested that the next panel might be assisted by:

- *Ms Ajube's attendance at the review hearing;*
- *Evidence by way of a reflective piece that demonstrates that Ms Ajube has insight into the impact that her misconduct had on Resident A, her colleagues and the reputation of the profession as a whole and how Ms Ajube would act differently in the future;*
- *Evidence of any further training relating to assessment of patients, escalation of deteriorating patients, working collaboratively with colleagues and record keeping;*
- *Testimonials with respect to any paid/unpaid work;*
- *Evidence that Ms Ajube has maintained knowledge of her clinical practice and has kept this up to date.*

The panel noted that the first reviewing panel found that Ms Ajube had insufficient insight. At this meeting the panel had no new information before it that suggests Ms Ajube has reflected any further on her misconduct.

In its consideration of whether Ms Ajube has remedied her practice, the panel again took into account that it has not been provided with any new evidence regarding remediation.

The last reviewing panel determined that Ms Ajube was liable to repeat matters of the kind found proved. Today's panel has not received any information to suggest otherwise. In light of this the panel determined that Ms Ajube is still liable to repeat

matters of the kind found proved. The panel therefore decided that a finding of continuing impairment is necessary on the grounds of public protection.

The panel noted that Ms Adjube has not engaged, requested a hearing, or supplied any of the suggested information to the last reviewing panel nor this panel. The panel today has no new evidence to suggest that Ms Ajube has insight into her failings, remediated her practice, kept up to date with the nursing profession or engaged in the proceedings.

The panel had borne in mind that its primary function was to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Ms Ajube's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Ms Ajube fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Ms Ajube's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered

that Ms Ajube's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether a conditions of practice on Ms Ajube's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest. The panel was not able to formulate conditions of practice that would adequately address the concerns relating to Ms Ajube's misconduct. Furthermore, due to the lack of engagement, the panel could not be satisfied that a conditions of practice order could be measurable or workable.

The panel next considered imposing a further suspension order. It was of the view that considerable evidence would be required to show that Ms Ajube no longer posed a risk to the public. The panel noted that Ms Ajube has not shown remorse for her misconduct and further, she has not demonstrated any insight into her previous failings both of which could mitigate the risk of repetition. Furthermore, the panel considered that it was not in the public interest to suspend a nurse continuously where there is no evidence of any attempt of remediation. The panel considered that public confidence in nurses could not be maintained by allowing Ms Ajube to remain on the register. The panel therefore determined that it was necessary to take action to prevent Ms Ajube from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 4 January 2020 in accordance with Article 30(1).

This decision will be confirmed to Ms Ajube in writing.

That concludes this determination.